STATEMENT OF THE

ASSOCIATION OF INTERNATIONAL AUTOMOBILE MANUFACTURERS, INC.

SUBMITTED TO THE U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON COMMERCE

SUBCOMMITTEE ON TELECOMMUNICATIONS, TRADE,

AND CONSUMER PROTECTION

REGARDING REAUTHORIZATION OF THE

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

MAY 22, 1997

Thank you for the opportunity to provide the views of the Association of International Automobile Manufacturers, Inc. (AIAM) on the reauthorization of the National Highway Traffic Safety Administration. AIAM is a trade association that represents companies which sell passenger cars and light trucks in the United States that are manufactured both here and abroad.[1]

[1] AIAM Represents: American Honda Motor Co., Inc.; American Suzuki Motor Corporation; BMW North America, Inc.; Fiat Auto U.S.A., Inc.; Hyundai Motor America; Isuzu Motors of America, Inc.; Kia Motors America, Inc.; Land Rover North America; Mazda Motor of America, Inc.; Mercedes-Benz North America, Inc.; Mitsubishi Motor Sales of America, Inc.; Nissan North America, Inc.; Porsche Cars

INTRODUCTION

The National Highway Traffic Safety Administration has been a valuable asset of the American public for three decades now. Its success in improving motor vehicle and traffic safety over those three decades has been outstanding. Through its leadership, through its traffic safety programs, and through its regulations, it has been instrumental along with auto manufacturers, state and local governments, and the public in reducing the traffic fatality rate from over 5 per hundred million vehicle miles traveled in the 1960s to 1.7 today. In absolute terms, the number of yearly traffic fatalities has been reduced from over 50,000 to just over 40,000. If the fatality rate of the 1960s had continued, 120,000 Americans would now lose their lives in traffic accidents each year. Thousands of Americans owe their lives to the safety leadership provided by NHTSA.

The auto industry and the other partners involved with NHTSA do not always agree on

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North America, Inc.; Rolls Royce Motor Cars Inc.; Subaru of America, Inc.; Toyota Motor Sales U.S.A., Inc.; Volkswagen of America, Inc.; and Volvo North America Corporation.

AIAM members' U.S. auto manufacturing plants include: AutoAlliance International, Inc., Flat Rock, MI; BMW Manufacturing Corp., Spartanburg, SC; Honda of America Mfg., Inc., Marysville, OH, East Liberty, OH; Mercedes-Benz U.S. International, Vance, AL; Mitsubishi Motor Manufacturing of America, Inc., Normal, IL; Nissan Motor Manufacturing Corp. U.S.A., Smyrna, TN; Subaru-Isuzu Automotive, Inc., Lafayette, IN; Toyota Motor Manufacturing, Kentucky, Inc.

the best way of improving safety, but they always agree that NHTSA has its mission firmly in mind when developing or promoting its programs. The advances in safety made over the last three decades would not have been possible without NHTSA's leadership. The marketplace would not have acted as quickly or efficiently in improving safety, and we view NHTSA's role as a proper government function.

AIAM would like to comment on NHTSA's air bag regulatory philosophy and on a few of NHTSA's programs in which we have some concerns. We also would like to make recommendations on increasing NHTSA's commitment to international harmonization of safety standards. Finally, we would like to comment on the American Automobile Labeling Act and on the Corporate Average Fuel Economy program which were assigned to NHTSA by Congress.

AIR BAG SAFETY

AIAM testified before this committee on April 28 on the subject of air bag safety, and AIAM has testified before other committees of the House and Senate on this subject over the last year. AIAM also has provided numerous comments to NHTSA concerning air bag safety over the last year and a half. Summarized below are AIAM's main points that are still of concern.

Depowered Air Bags

AIAM is pleased that NHTSA has moved quickly to modify its air bag regulation to allow the alternative compliance method of the sled test that will allow manufacturers to introduce depowered air bags quickly. This will result in a reduction of the risk of air bag deployment injuries to out-of-position unrestrained or improperly restrained occupants and infants in rear-facing child seats, and an overall improvement in occupant crash protection.

However, NHTSA has set a sunset date of September 1, 2001, for eliminating the sled test option, and it is planning to propose at the end of this year or early next year a change to its air bag regulation that could have the effect of reinstating even earlier the unbelted dummy 30 mph barrier crash test as the only compliance method. AIAM opposes any reinstatement of the unbelted dummy barrier test and favors eliminating any unbelted test in the air bag regulation. Our primary reason is that depowered air bags will produce societal benefits exceeding those of current air bags. Even greater societal benefits would result if the unbelted test is eliminated permanently allowing restraint systems to be optimized for belted occupants.

Air Bags and Safety Belt Use

With regard to safety belt use, the Administration recently released a plan to increase safety belt use from 68 percent currently to 85 percent by 2000 and 90 percent by

2005. AIAM welcomes this plan and will do its part to support it. AIAM believes the goals are attainable. Primary safety belt use laws and enhanced enforcement of these laws, which are cornerstones of the Administration's plan, have produced high levels of belt use in parts of the U.S. and in other countries. For example, belt use in California is 87 percent, in North Carolina is 82 percent, and in Canada is 92 percent. AIAM supports the incentive and sanction features in the plan as the best approach to achieving State primary safety belt use laws. AIAM urges the Congress to enact legislation that will facilitate achieving the plan's goals. Increasing safety belt use will produce the greatest improvements in occupant safety. The combination of depowered air bags and increased use of safety belts will produce even greater benefits for restraint systems optimized for the belted occupant.

Air Bags and NCAP

Because AIAM believes that depowered air bags will produce more benefits compared to current air bags, AIAM is concerned with the incompatibility of depowered air bags and NHTSA's New Car Assessment Program (NCAP) that generates consumer information for frontal crashes based on a 35 mph barrier crash test. Even though this test is conducted with belted dummies, it requires aggressive air bag deployment to produce good results using the NHTSA injury assessment criteria. The NCAP scores of many vehicles with depowered air bags will drop and consumers will be given an impression that safety has been degraded. In fact, depowered air bags will improve occupant protection overall.

Air Bag Deactivation

AIAM does not oppose deactivation of air bags in limited circumstances, such as for medical reasons, as determined and approved by NHTSA. However, AIAM does not support deactivation on demand and has responded to NHTSA's proposal with comments opposing such a policy as inconsistent with safety. AIAM also commented that NHTSA does not have the authority under the Safety Act to allow air bag deactivation without a strong safety rationale. Four former NHTSA Administrators have stated that controlling the circumstances of deactivation is a proper Government role that should not be delegated to consumers, dealers, or repair facilities. AIAM understands the concern of small-statured drivers about their proximity to the air bag. However, it is not stature per se but proximity to the air bag that is important, and field experience has shown that this is most often a result of safety belt non-use or mis-use. Always wearing safety belts and sitting as far as possible from the steering wheel essentially eliminates any risk while preserving the lifesaving capabilities of the air bag.

With widespread deactivation, safety will be degraded. Besides eliminating the lifesaving potential of the air bags, other safety problems are created. Safety belts, steering columns, and other vehicle features are designed to operate with the air bag as a system, and deactivating the air bag can result in less protection to occupants than if the same vehicle had it been designed without the air bag. In addition, subsequent owners of a vehicle may not know the air bag is deactivated and unknowing occasional

passengers may be seriously injured or killed because an air bag was not available to protect them. NHTSA should continue its current practice of approving air bag deactivations only in limited circumstances, such as if the air bag creates a risk to an occupant because of a medical condition.

Legal Exposure

Auto manufacturers are providing air bags because of market demand and now under Government mandate. Also, air bag design is dictated in large part by Federal regulation. Automakers have taken extraordinary steps to minimize the rare risks of injury or fatality resulting from that regulation. Manufacturers should not be subjected to legal liability risks when they are responding in good faith to a Federal mandate, or if they provide depowered air bags that are now feasible following a change in the Federal standard, or if air bags are deactivated upon authorization in limited circumstances by NHTSA. An example of unreasonable exposure relates to possible widespread deactivation. An ad ran in the New Orleans Times-Picayune recently soliciting class action plaintiffs for recovering from manufacturers and dealers the cost of deactivated air bags. There are now three class-action lawsuits that have been filed seeking recovery of the cost of air bags. AIAM urges Congress to address this exposure and to provide protection for manufacturers who have acted responsibly.

CONSUMER INFORMATION

NHTSA recently published a notice for comment on expanding its consumer information program to incorporate many of the recommendations contained in a March 1996 National Academy of Sciences (NAS) report titled “Shopping for Safety - Providing Consumer Automotive Safety Information.” AIAM fully supports consumer information on safety for the public and welcomes the opportunity to comment on NHTSA’s programs and plans. However, AIAM has some concerns about the current program and future direction.

Rollover Consumer Information

NHTSA’s recent announcement stated its intention to try to develop a dynamic test to evaluate the rollover propensity of vehicles to be used for consumer information. NHTSA has sponsored vehicle handling research for over 25 years to try to develop vehicle handling tests, including rollover tests, for use in specifying vehicle performance or for consumer information. The agency’s research expenditures of several million dollars have not produced any tests that can be used for regulation or consumer information. The primary reasons for the lack of success are:

1) <u>The difficulty in developing tests that represent the real-world maneuvers that lead to rollovers</u> - there is little pre-crash information available that would help define the typical maneuvers and driver actions that lead to rollover crashes.

Whereas a vehicle's damage pattern and damage extent, and the occupant impact witness marks inside a vehicle, can be used to describe and evaluate crash performance and injury causation, there is almost no evidence at a crash site of the pre-crash dynamic events and driver actions.

2) The influence of driver actions on test results - it is very difficult to perform repeatable vehicle maneuvers with a test driver controlling the vehicle, and the test driver can also influence the results. If a machine is used for repeatable control inputs, questions of reasonableness and needed variety of control inputs arise.
3) The lack of correlation of test results to real-world crash statistics - there are numerous vehicles which should be susceptible to high rollover rates, but do not because of how they are driven. Likewise there are numerous vehicles which should not have high rollover rates, but do because of how they are driven. Thus, driver factors are important in the real-world rollover experience of a vehicle, but driver factors cannot be included in an objective vehicle rollover test.

AIAM is concerned that this effort by NHTSA will result in non-objective, misleading, or unfair consumer information being disseminated.

Combined Crashworthiness and Crash Avoidance Consumer Information

The NAS report listed many limitations of the current vehicle tests and state of knowledge of crash and injury causation that it recommends be addressed before an objective, combined crashworthiness and crash avoidance overall safety rating can be used for consumer information. The report states, “In summary, the current level of understanding about vehicle safety characteristics and features--both their effect on crash likelihood and the protection they afford to vehicle occupants--is not well enough advanced to provide consumers with a definitive assessment, based strictly on scientific grounds, of the highway safety performance of a new vehicle.” AIAM agrees with this assessment and has other concerns about the current NCAP program of NHTSA and the future expansion of this program.

The most fundamental concern is that driver factors overwhelm vehicle factors in predicting the occurrence and the outcome of a crash. Driver error, inappropriate action, or other driver factors are primary causes of more than 80 percent of crashes. The lack of safety belt use is much more important in the injury outcome of a crash than any vehicle factors. Thus, the most effective consumer information program would be based on these facts, and any vehicle rating scheme must include a clear and strong statement of this fundamental message. The NAS report recognizes this and makes a similar recommendation.

Another factor is that the current tests of vehicle crashworthiness are not particularly representative of the vast variations of crashes in the real world. NHTSA’s own analysis of frontal crashes is that crashes in which the two vehicles are offset from one

another are more common than crashes in which the two vehicles are perfectly aligned. Thus, a vehicle that may not perform well in NHTSA's 35 mph frontal barrier test that it now uses for frontal crash consumer information may do well in the real world because it may perform well in a crash mode not tested by NHTSA. This is partially reflected in NHTSA's own attempt to validate its New Car Assessment Program (NCAP) frontal test in which it found a weak correlation to the real world only for the very best and the very worst performers.

AIAM believes that the current frontal and side impact NCAP consumer information is not sufficiently comprehensive and needs more development to be meaningful to the public. Also, much work must be done before comprehensive, objective consumer information covering a broad range of crash and pre-crash situations can be provided to the public as envisioned in the NAS report and NHTSA's recent notice for comment.

HARMONIZATION OF SAFETY STANDARDS

At the present time, populations of all countries of the world are demanding more personal mobility. As a result, the motor vehicle industry has become increasingly global in both manufacturing and sales. Regardless of where motor vehicles are manufactured, they are exported to most parts of the world. National boundaries are disappearing for both manufacturing and sales. In some cases, manufacturers establish manufacturing capabilities in countries that are major markets, but not their

home countries, and then export back to the home market or to other parts of the world. Also, manufacturers are rapidly moving to "world" cars that are developed to meet the needs of consumers in a number of markets.

Because of the increasingly global nature of the automobile industry and recognizing that the human beings safety standards are designed to protect are the same from country to country, safety standards can be much more harmonized than they are now. Differences among safety standards worldwide should only reflect differences in driving environments and automotive fleet composition in different countries. For manufacturers, the cost of research, designing vehicles, testing vehicles, and manufacturing to different standards is a cost that is not justified when the needs of consumers are considered since this cost is passed on to consumers.

NHTSA has been a global leader in international harmonization, and AIAM commends its actions on harmonization. We would like to ensure continuation of NHTSA's harmonization activities and improve the means of incorporating harmonization into its activities.

AIAM recommends that harmonization be a required criteria that NHTSA must consider when developing and promulgating new safety standards, and that harmonization of existing standards be a required NHTSA function.

AMERICAN AUTOMOBILE LABELING ACT

The American Automobile Labeling Act (AALA) was enacted as part of the Fiscal Year 1993 Transportation Appropriations Bill. Since passage of the Act, NHTSA has labored over publishing a rule that is fair and enforceable. However, for almost four years, the law remains not practicable and not in the best interest of the public.

AIAM member companies have incurred significant costs as a result of the AALA, which in turn increases costs of vehicles to consumers. Although AIAM supports efforts to provide consumers with useful information in order that they may make informed decisions on their purchases, the AALA is considered by many as "misleading and deceptive information." Former Chairman of the Federal Trade Commission, Dan Oliver, has publicly commented "This act requires - not permits, but requires- deceptive labeling." This law is a nuisance and onerous burden for auto manufacturers, suppliers, and dealers. Additionally, consumers, which test groups have shown are indifferent toward the label, are being confused, deceived and misled with inaccurate information.

AIAM supports Congressional action to prohibit NHTSA from continuing to dedicate wasted time and money trying to implement and enforce this flawed law. This law has only increased the regulatory burden of large and small business, while it has produced minimal, if any, benefit for consumers. The whole thrust of the American Automobile Labeling Act shows a failure to appreciate the international nature of the motor vehicle

industry, the actual commercial practices of the business, and most important, the benefits the AIAM members' companies provide to American consumers and the economy.

The Act leaves to NHTSA the unenviable task of developing regulations to implement a self-contradictory law. The stated intent of the Act, as set forth at Section 210(d), is to provide

> "to the ultimate purchaser of a new passenger motor vehicle the best and most understandable information possible about the foreign and U.S./Canadian origin of the equipment of such vehicles without imposing costly and unnecessary burdens on the manufacturers."

However, the Act also dictates certain methods for determining parts content percentages which clearly distort the information presented to the customer. For example, the customer will receive an inflated impression of the U.S./Canadian parts content on a vehicle produced in another country if other vehicles in the same carline are produced in the United States. Parts suppliers are required to be accounted for differently based on their equity relationship with the manufacturer, an aspect which has no bearing on whether a product is domestic or imported.

Examples of Problems in the Law

On several occasions AIAM has expressed concern to NHTSA and to the Congress that the motor vehicle content label could foster consumer confusion and requested, as a consequence, that NHTSA provide remedies in the Final Rule to the distortions, several of which are briefly described below. Unfortunately, NHTSA cannot address some of the most serious problems in the law as they can only be changed by Congress.

Canada Counts as U.S.

The percentage of "domestic" parts is calculated using American and Canadian parts. By treating Canada as the 51st state, U.S. consumers will have absolutely no idea what percentage of the U.S./Canadian parts content percentage is attributed to U.S. workers.

Roll-up/Roll-down Results

The AALA discriminates against suppliers who are not wholly owned by the manufacturer because the law sets two different standards for determining the value of a part. If a part installed in a car is purchased from an “allied” supplier, *i.e.,* one that is

wholly owned by the manufacturer, the total actual value of the U.S./Canadian content of that part is counted toward the country of origin label designation. However, if the same part is purchased from an "outside" supplier, *i.e.,* one that is not owned by the manufacturer, none of the part's value will be included in the overall value of the car for labeling purposes, unless the part has 70 percent or higher U.S./Canadian content. Under the "roll-up/roll-down" formula, parts purchased from an outside supplier count as 100 percent domestic if they have more than 70 percent domestic content. Conversely, parts count as 0 percent if they have less than 70 percent domestic content. The exception to this rule is a manufacturer buys a part from a supplier that is wholly-owned. Then the manufacturer gets credit for the exact amount of domestic content in the part. For example, GM buys a Delco part with 65 percent domestic content. GM gets credit for 65 percent domestic content. If Chrysler buys the same part, they get 0 percent domestic content. According to a DOT example, this means that two identical cars could have different U.S./Canadian content figures based solely on the relationship of the manufacturer to the supplier. Given that the Act includes only parts, and excludes entirely the labor of assembly, this test further distorts the information that will be disclosed on the label.

Carlines

The law mandates the *averaging* of parts content in entire carlines. This means that an identical model manufactured both in the United States and in another country

would show the identical parts content, although one that is assembled in an America-based assembly plant may, in fact, have a much higher percentage of American-made parts (not to mention labor). Coupled with the supplier discrimination and the inclusion of Canada for purposes of labeling, the AALA produces results that seem bizarre from the standpoint of consumer perception. For example, a car assembled in Canada will appear to consumers to have been "made in the USA." At the same time, a car assembled in a United States plant will look to consumers (taking into account carline averaging) to be no different than the identical car when it is built in a foreign country. As the above example makes clear, the use of AALA misleads, not informs, those consumers who want accurate information about the geographical origins of an automobile they might buy.

Excludes U.S. Labor

By excluding final assembly labor, the AALA fails to measure and disclose to the car buying public the significant contribution of American labor to a vehicle's overall value. AIAM's member companies employ approximately 65,000 Americans at their U.S. manufacturing facilities located in Alabama, California, Indiana, Illinois, Kentucky, Michigan, Ohio, South Carolina, and Tennessee. The contributions of these American workers are ignored by the AALA. The result is that the AALA misleads consumers who care about American jobs (labor) more than the location of the carmaker's corporate headquarters.

Final Assembly

NHTSA's interpretation of "final assembly" in the Final Rule is so broad that it includes all assembly operations that occur in an assembly plant, except for "those that are incurred in producing either engines/transmissions or in producing parts using forming processes such as stamping, machining or molding." This means that the value added to components in a final assembly plant, even if all the parts are 100 percent U.S./Canadian, does not count. Meanwhile, if the same labor function is performed by a parts supplier across the street, it would count as U.S./Canadian.

"Rolls Down" Foreign Content

Another example of how this law compels the use of misleading and deceptive information is by using the roll-up/roll-down formula. Under this formula, the sum of the U.S./Canadian parts content percentage (line #1) and percentage of parts content provided by the top two countries that supply more than 15 percent of a vehicle's parts (line #2) could exceed 100 percent. Believing that would confuse consumers, NHTSA decided that manufacturers are to reduce the foreign source

percentages in line #2 to the extent necessary to bring the total percentage down to 100 percent, essentially rolling down (and out) foreign content.

As these examples illustrate, the American Automobile Labeling Act will not fulfill its promise to provide consumers with a clearer picture of a vehicle's origin. Instead of enlightening consumers, it will put them in the dark. AIAM supports providing consumers with the most accurate and useful information. However, as currently implemented, the AALA does not relay this information.

CAFE FLEET SPLIT

While AIAM realizes that CAFE may not be considered in NHTSA reauthorization, AIAM would like to point out that the domestic/import fleet split provision of the CAFE law is a clear example of an outdated requirement which may result in the unintended consequences of reducing purchases of U.S. auto parts. International automobile manufacturers purchase over $21 billion annually in U.S. auto parts. However, without this fleet split provision, purchases could be even higher.

After 20 years experience, it is clear the dual fleet criteria has perversely resulted in the removal of domestic content from U.S. produced cars, including both domestic and international manufacturers. For example, for several model years, Ford’s Crown Victoria has swung below and above the 75 percent content threshold depending on

whether its fuel economy levels were best included in the import or domestic fleet.

More importantly, the fleet distinction now serves as an inhibiting factor for new auto manufacturers operating in the U.S. to increase the domestic content of their U.S. produced cars. For example, some new U.S. manufacturers may have to keep their U.S. produced cars below the 75 percent threshold because they are the most fuel efficient and moving them into the domestic fleet would expose their import fleet to penalties. Meanwhile, others may need to keep their domestic production below 75 percent because the cars obtain lower fuel economy levels than the current standard and to move them into the domestic fleet without an off-setting higher mileage car would expose their domestic fleet to penalties. In either case, the CAFE fleet split designation causes a significant disincentive to use U.S. parts and materials.

The current dual fleet requirements in the CAFE law are inconsistent with and are counterproductive to the U.S. Government's desire for auto manufacturers to increase the purchase of the U.S. auto parts and materials. The time has come for this provision to be revisited so that U.S. auto parts and materials suppliers (and their employees) can be used to the maximum extent possible by all auto manufacturers operating in the U.S.